

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF PENNSYLVANIA

FRANCIS LOMBARDO

Plaintiff,

v.

LUZERNE COUNTY, et al.,

Defendants.

CIVIL ACTION NO. 1:23-CV-01245

(MEHALCHICK, J.)

**ORDER**

Prisoner Plaintiff Francis Lombardo (“Lombardo”) filed this amended [42 U.S.C. § 1983](#) civil rights complaint alleging that Defendants used excessive force or failed to protect him from such force. ([Doc. 23](#)). Presently before the Court is the report of Judge Carlson, recommending that this Court grant in part and deny in part the pending motions to dismiss and that Lombardo be required to provide a more definite statement, in the form of an amended complaint, with respect to his negligence claims against Defendant Iannuzi. ([Doc. 37](#)). No timely objections were filed to this Report and Recommendation.

Where no objection is made to a report and recommendation, this Court will review the recommendation only for clear error. [Fed. R. Civ. P. 72\(b\)](#), advisory committee notes; see [Henderson v. Carlson](#), 812 F.2d 874, 878 (3d Cir. 1987) (explaining that court should in some manner review recommendations regardless of whether objections were filed). Regardless of whether objections are made, district courts may accept, reject, or modify—in whole or in part—the findings or recommendations made by the magistrate judge. [28 U.S.C. § 636\(b\)\(1\)](#); Local Rule 72.31.

Upon review of the record, the Court finds no error in Judge Carlson’s conclusions. Consequently, **IT IS HEREBY ORDERED** that:

1. The report and recommendation of Judge Carlson ([Doc. 37](#)) is **ADOPTED IN ITS ENTIRETY AS THE OPINION OF THE COURT.**
2. Lombardo's claims against Defendants Luzerne County and Luzerne County Correctional Facility are **DISMISSED WITH PREJUDICE.**
3. Lombardo's claims against Defendant Warden Rockovich are **DISMISSED WITH PREJUDICE.**
4. Lombardo's negligence claims against Defendant Flynn, Defendant Antosh, and John Doe Defendants are **DISMISSED WITH PREJUDICE.**
5. Lombardo's Eight and Fourteenth Amendment deliberate indifference claims and state law intentional infliction of emotional distress claims against Defendant Iannuzi are **DISMISSED WITH PREJUDICE.**
6. Lombardo is required to provide a more definite statement, in the form of an amended complaint, detailing exact nature of his negligence claims against Defendant Iannuzi on or before **Friday, May 3, 2024.**
7. This matter is remanded to Judge Carlson for further pretrial management, including the disposition of any dispositive motions.

Dated: April 5, 2024

*s/ Karoline Mehalchick*  

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**KAROLINE MEHALCHICK**  
United States District Judge